

ESCROW AGREEMENT

City of Mesa – Development Services Administration
Box 1466, Mesa, AZ 85211-1466

PROJECT NO. _____

ESCROW NO. _____

In order that _____, hereinafter referred to as the “Company”, may take advantage of the provisions of Section 34-221, Arizona Revised Statutes, the Company has requested _____, banking association who is licensed by the State of Arizona, hereinafter referred to as the “Bank”, to hold in escrow for the primary benefit of the City of Mesa, Arizona, hereinafter referred to as the “City”, the items hereinafter described, which items shall be held according to the terms and conditions hereinafter set forth.

1. In lieu of retention, the Company will deposit with the Bank securities as allowed for in A.R.S. 34-221 (such as, time certificates of deposit of federally insured banks licensed by the State of Arizona, securities of or guaranteed by the United States of America, securities of this state, securities of counties, municipalities and school districts within this state or shares of savings and loan institutions authorized to transact business in this state). Verification of said securities shall be delivered to the City along with a signed and acknowledged waiver, by the depository bank, of any right of power to set-off against either the City or the Company in relation to the securities assigned. Copies of any “Time Certificates of Deposit” shall also be provided to the City. As existing securities mature, the Bank shall hold the proceeds of such maturing securities or shall reinvest the proceeds in other securities as directed in writing by the Company. In the event that the Company directs the proceeds be reinvested in securities, the same waiver as described herein shall be required. (For purpose of convenience, the various types of securities, as described above, may hereinafter collectively be referred to as the “Escrow Funds”. The interest received on the Escrow Funds is not includable within the definition of Escrow Funds, and shall be paid over to the Company by the Bank at the request of the Company.)

2. The Bank shall at the time of the receipt of escrow funds of whatsoever nature herein described or at any time thereafter when other escrow funds are substituted therefore, deliver as agent of the Company an assignment to the City of such escrowed funds in a form

acceptable to the City specifically identifying the kind, character and class of such escrow funds; and the Bank shall, at the time of any substitution of escrowed funds deliver an assignment of any new or substituted escrowed funds and receive in exchange from the City such prior assignments of escrowed funds as are being substituted therefore.

3. Upon the written demand of the City the Bank shall, within five (5) business days or receipt of said written demand pay over to the City such portion of the Escrowed Funds as requested by the City. Further, within five (5) days after receipt of the written demand of the City, the Bank may pay over to the Company such portion of the Escrowed Funds as authorized by the City. The Company's approval for the herein described disbursements shall not be required, and such disbursements shall be made even though the Company shall object to such disbursements.

4. Once each month the Bank shall furnish the Company a statement showing the transactions for the preceding calendar month and the Escrowed Funds being held by the Bank as of the last day of the previous calendar month. From time to time at the request of the Company or the City, the Bank will furnish to the City and to the Company an interim statement showing the Escrowed Funds currently being held as of the last day of each month or if the last day is a non-business day, then the next following business day.

5. All fees, costs and charges made by the Bank in connection with the holding in escrow of the Escrowed Funds pursuant to the provisions of the agreement shall be paid by the Company. The Escrowed Funds shall be free of any claim or charge for such fees or charges. The Bank may pay itself for such accrued fees and charges out of interest received from the Escrowed Funds or deduct the same from any portion of the Escrowed Funds to be paid to the Company according to written authorization from the City.

6. It is clearly understood that the Bank shall not be deemed liable nor responsible for the collect-ability of any securities purchased or held pursuant to the terms and conditions of this escrow agreement. The City shall have the right to have its designated representative inspect the Escrowed Funds from time to time to determine the authenticity of the Escrowed Funds. If such inspection shall determine any part or all of the Escrowed Funds is not authentic or collectible, the Company shall have the obligation to forthwith correct such deficiency.

7. Notwithstanding any thing to the contrary herein appearing, the Bank shall have no duty to know or determine the performance or nonperformance of any term or condition of

any contract or agreement between the City and the Company, and the duties and responsibilities of the Bank are limited to those specifically stated herein.

8. The Company agrees to pay on demand, as well as to indemnify and hold the Bank harmless from and against all costs, damages, judgments, attorneys' fees, expenses, obligations and liabilities of any kind or nature which, in good faith, the Bank may incur or sustain in connection with, or arising out of this Escrow Agreement and the Bank is hereby given a lien upon all rights, titles and interests the Company has in the interest which may accrue on the Escrowed Funds and in the portion of the Escrowed Funds which, according to written request by the City, are to be paid to the Company.

DATED this _____ day of _____, 20 ____.

Name of Company

Name of Bank

By _____

By _____

Its _____

Its _____

STATE OF ARIZONA }
 }
County of Maricopa } ss "COMPANY"

The foregoing instrument was acknowledged before me this ____ day
of _____, 20 ____, by _____,
as _____ of _____, an Arizona
corporation, on behalf of the corporation.

Notary Public

My Commission expires:

STATE OF ARIZONA }
 }
County of Maricopa } ss "BANK"

The foregoing instrument was acknowledged before me this ____ day
of _____, 20 ____, by _____,
as _____ of _____, an Arizona
bank, on behalf of the bank.

Notary Public

My Commission expires:
